

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 420

Introduced by Bromm, 23

Read first time January 9, 2001

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to public buildings; to amend sections 52-118,
2 52-118.01, and 73-106, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to payment bonds;
4 to change provisions relating to bids; to harmonize
5 provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 52-118, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 52-118. (1) Except as provided in subsection (2) of this
4 section, it shall be the duty of the State of Nebraska or any
5 department or agency thereof, the county boards, the contracting
6 board of all cities, villages, and school districts, all public
7 boards empowered by law to enter into a contract for the erecting,
8 furnishing, or repairing of any public building, bridge, highway,
9 or other public structure or improvement, and any officer or
10 officers so empowered by law to enter into such contract, to which
11 the general provisions of the mechanics' lien laws do not apply and
12 when the mechanics and laborers have no lien to secure the payment
13 of their wages and suppliers who furnish material and who lease
14 equipment for such work have no lien to secure payment therefor, to
15 take from the person~~7 persons7 firm7 or corporation~~ as defined in
16 section 49-801 to whom the contract is awarded a payment bond or
17 bonds in a sum not less than the contract price with a corporate
18 surety company and agent selected by such person, conditioned for
19 the payment of all laborers and mechanics for labor that is
20 performed and for the payment for material and equipment rental
21 which is actually used or rented in the erecting, furnishing, or
22 repairing of the public structure or improvement or in performing
23 the contract.

24 (2) The labor and material payment bond or bonds referred
25 to in subsection (1) of this section shall not be required for (a)
26 any project bid or proposed by the State of Nebraska or any
27 department or agency thereof which has a total cost of fifteen
28 thousand dollars or less or (b) any project bid or proposed by any

1 county board, contracting board of any city, village, or school
2 district, public board, or officer referred to in subsection (1) of
3 this section which has a total cost of five thousand dollars or
4 less unless the state, department, agency, board, or officer
5 includes a bond requirement in the specifications for the project.

6 (3) The bond or bonds referred to in subsection (1) of
7 this section shall be to, filed with, approved by, and safely kept
8 by the State of Nebraska, department or agency thereof, officer or
9 officers, or board awarding the contract. No contract referred to
10 in subsection (1) of this section shall be entered into by the
11 State of Nebraska, department or agency thereof, officer or
12 officers, or board referred to in subsection (1) of this section
13 until the bond or bonds referred to in subsection (1) of this
14 section has been so made, filed, and approved.

15 (4) The bond or bonds referred to in subsection (1) of
16 this section may be taken from the person to whom the contract is
17 awarded by the owner and owner's representative jointly as
18 determined by the owner.

19 Sec. 2. Section 52-118.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 52-118.01. Every person who has furnished labor or
22 material in the prosecution of the work provided for in the
23 contract set out in subsection (1) of section 52-118, in respect of
24 which a bond is or bonds are furnished under such section, and who
25 has not been paid in full therefor before the expiration of a
26 period of ninety days after the day on which the last of the labor
27 was done or performed by him or her or material was furnished or
28 supplied by him or her for which such claim is made shall have the

1 right to sue on such bond or bonds for the amount or the balance
2 thereof unpaid at the time of the institution of such suit and to
3 prosecute the action to final execution and judgment for the sum
4 or sums justly due him or her. Any person having a direct
5 contractual relationship with a subcontractor but no contractual
6 relationship, express or implied, with the contractor furnishing
7 such bond or bonds shall have a right of action upon the bond or
8 bonds upon giving written notice to the contractor within four
9 months from the date on which such person did or performed the last
10 of the labor or furnished or supplied the last of the material for
11 which such claim is made, stating with substantial accuracy the
12 amount claimed and the name of the party to whom the material was
13 furnished or supplied or for whom the labor was done or performed.
14 Such notice shall be served by mailing the same by registered or
15 certified mail, postage prepaid, in an envelope addressed to the
16 contractor at any place he or she maintains an office or conducts
17 his or her business or his or her residence or in any other
18 manner in which a notice may be served.

19 Sec. 3. Section 73-106, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 73-106. Whenever any public school district in the state
22 expends public funds for the construction, remodeling, or repair of
23 any school-owned building or for site improvements, other than
24 those expenditures authorized by section 79-10,104 for facilities
25 which are not to be owned by the district following their
26 completion, the school board of education or its representative
27 shall advertise for bids in the regular manner established by the
28 board and accept or reject bids pursuant to section 73-101, except

1 that nothing in this section ~~shall be held to apply~~ applies to such
2 construction, remodeling, repair, or site improvements when the
3 contemplated expenditure for the complete project does not exceed
4 forty thousand dollars. This section ~~shall~~ does not apply to the
5 acquisition of existing buildings, purchase of new sites, or site
6 expansions by the school district.

7 Sec. 4. Original sections 52-118, 52-118.01, and 73-106,
8 Reissue Revised Statutes of Nebraska, are repealed.